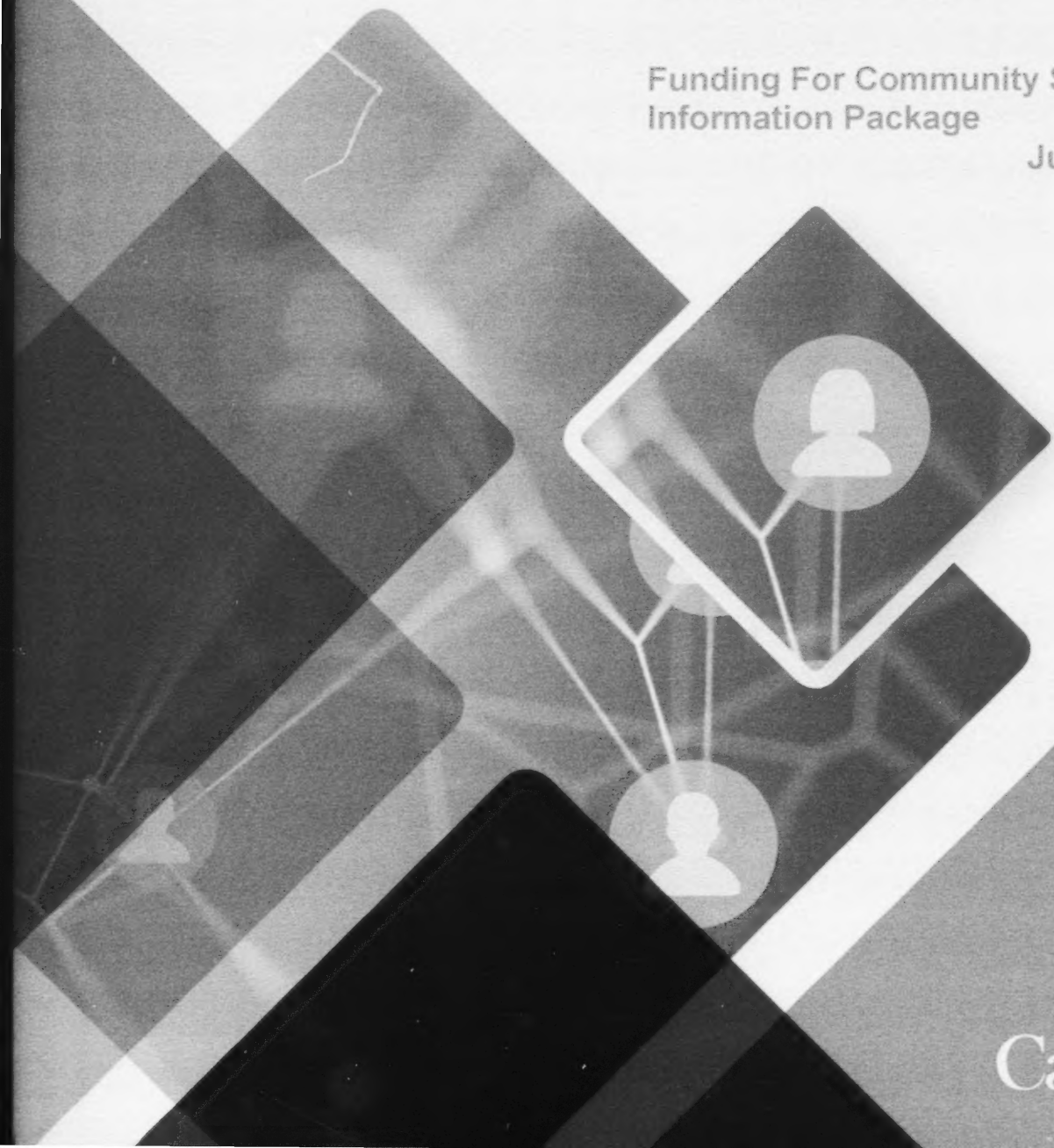
Government of Canada | Gouvernement du Canada

COLLABORATIVE PROCESS

on Indian Registration, Band Membership and First Nation Citizenship

Funding For Community Sessions Information Package

June 2018



Canada

Funding for Community Sessions
Information Package

1. Introduction

In August 2015, a decision was rendered in the *Descheneaux* case by the Superior Court of Quebec which declared key provisions of the *Indian Act* inoperable because they violated equality rights under the *Charter*. The *Descheneaux* decision highlighted residual sex-based inequities in Indian registration affecting first cousins and siblings that were carried forward following the 1985 and 2011 amendments to the *Indian Act*. It also brought to light the long-standing and unaddressed broader issues relating to Indian registration, band membership and First Nation citizenship.

In July 2016, the Government launched its approach to respond to the *Descheneaux* decision. It includes two elements:

1) **Legislative changes** to respond to the decision; and
2) **A Collaborative Process** on Indian registration, band membership and First Nation citizenship which involves comprehensive consultations on the broader and more complex issues related to registration, membership and citizenship. The Collaborative Process will involve consultations with First Nations, Indigenous groups and impacted individuals with a view to future legislative reform within the context of reconciliation and a renewed relationship.

Legislative Changes

For the first element, *An Act to amend the Indian Act in response to the Superior Court of Quebec decision in Descheneaux c. Canada (Procureur général)* came into force on December 22, 2017. Bill S-3 not only remedied the issues identified in the *Descheneaux* decision, it also included provisions to remove what is commonly known as the 1951 cut-off (the practice of linking registration reform to the date of the creation of the modern Indian registry in 1951), but with a delayed coming into force to allow for consultation on an implementation plan. Bill S-3 addresses sex-based inequities in the Indian registration provisions of the *Indian Act* for the following situations:

- the cousins issue: differential treatment of first cousins whose grandmother lost status due to marriage with a non-Indian before April 17, 1985;
- the siblings issue: differential treatment of women who were born out of wedlock to Indian fathers between September 4, 1951 and April 17, 1985;
- the issue of omitted minor children: differential treatment of minor children who were born of Indian parents or of an Indian mother, but could lose entitlement to Indian status, between September 4, 1951 and April 17, 1985, if they were still unmarried minors at the time of their mother's marriage; and
- the unstated or unknown parent issue: in response to the Ontario Court of Appeal's *Gehl* decision, which deals with unstated/unknown parent issue, Bill S-3 provides flexibility for the Indian Registrar to consider various forms of evidence in determining eligibility for registration in situations of an unstated or unknown parent, grandparent or other ancestor.

The Bill also includes provisions that will remove the 1951 cut-off in respect of the cousins. This amendment will come into force at a later date, once consultations with First Nations are completed.

A Collaborative Process

For the second element, Minister Bennett launched the co-design phase of the Collaborative Process on Indian registration, band membership and First Nation citizenship on October 31, 2017. The focus of the co-design was identifying what issues will be discussed and what activities will be undertaken by participants as part of the consultations.

The results of the co-design phase were summarized in the *Report to Parliament on the Design of a Collaborative Process on Indian Registration, Band Membership and First Nation Citizenship* is available on the Department's website at www.aadnc-aandc.gc.ca/eng/1525287514413/1525287538376.

Consultations under the Collaborative Process were launched on June 12, 2018. An Indigenous Minister's Special Representative (MSR) was appointed by the Minister of Crown-Indigenous Relations and Northern Affairs Canada to lead consultation activities, regional events, and participate in community-organized activities. The MSR's participation is recommended subject to availability. Government representatives are also available to participate in sessions and provide information.

The purpose of this document is to provide information on the requirements and process for First Nations and Indigenous organizations who wish to submit a proposal to apply for funding to hold community-organized sessions to discuss these issues.

2. What Are We Consulting On?

The Department has prepared a Consultation Plan which outlines the gathering of information through various government and community organized consultation activities, regional events, online engagement, and expert panels. The Consultation Plan was informed by input from the co-design and suggestions raised from a recently created Indigenous Advisory Panel who will provide advice and guidance to the government throughout the Collaborative Process.

In addition to what was legislated under Bill S-3, the analysis of the co-design input saw the emergence of three general content streams that will be considered through consultation.

1) **The removal of the 1951 cut-off from the *Indian Act***
   Discussions will focus on the implementation of the delayed coming-into-force provision in Bill S-3 relating to the removal of the 1951 cut-off. First Nations will be consulted on how best to implement the changes, to identify what resources could be required, and to ensure unintended consequences are mitigated.

2) **Remaining inequities related to registration and membership under the *Indian Act***
   These issues were articulated in Bill S-3 and enhanced by the input received during the co-design phase. This includes issues such as, but not limited to: adoption, the second-generation cut-off, or enfranchisement, as well as the related issues of resources and impacts on communities. See Annex A for further details.

3) **Devolution of the responsibility for determining membership / citizenship to First Nations**
This includes discussions and developing options to devolve the exclusive responsibility for the determination of the identity of their membership to First Nations. What is the federal versus First Nation role in determining status and band membership in regards to section 10 and section 11 of the *Indian Act?*

3. Who Can Apply?

Application for funding is available to First Nations and Indigenous groups that qualify for funding under the terms and conditions for INAC transfer payments. Examples include but are not limited to, First Nations, Treaty organizations, Tribal Councils, and Friendship Centres. For more information on who can apply, please visit the Department's website at www.aadnc-aandc.gc.ca/eng/1386006008861/1386006068609.

4. Funding Levels

Three levels of funding are available:

Funding Levels	**Amount of funding**
Single community (e.g. a single First Nation, a community located in an urban centre)	Up to $10,000.00
Multi-community (e.g. Tribal Councils, Treaty organization, political or other groups / organizations representing First Nations in part of a province)	Up to $35,000.00
Regional organizations (e.g. Indigenous organization representing an entire province)	Up to $75,000.00

In order to support fairness and transparency; guidelines and evaluation criteria have been established for the review of proposals and approval of funding.

The maximum amount of funding will be strictly adhered to – the maximum levels include administrative costs. **Proposals that exceed the maximum amount of funding outlined above will not be approved for funding**.

5. Eligible Activities

First Nations and Indigenous Organizations can be creative with respect to how to engage their membership and constituents. We encourage the use of technology, where available, to allow for the maximum number of participants in each session. The Minister's Special Representative (MSR) was appointed to participate in community-organized activities. The MSR's participation is recommended subject to availability. Government representatives are also available to participate in activities and provide information. Eligible activities may include (but are not necessarily limited to):

- Community meetings
- Town hall sessions
- Group discussions
- Focus groups

- Dialogue circles
- Roundtables

6. Ineligible Activities

The Department will be hosting an online survey that will be available for all individuals. As a result, funding for surveys will not be provided.

7. How to Apply?

Proposals should be submitted as soon as possible but no later than **August 17, 2018**. A proposal template has been provided. There is no obligation to use the template, however, all the elements are required.

The assessments of the proposal will begin upon its receipt. You will receive acknowledgement of receipt of your proposal. You may be contacted by a representative of the Department for clarification purposes. A written response will be sent to applicants between August 17 and August 31, 2018 to confirm whether or not the proposal has been approved for funding. Successful applicants will receive a Consultation Guide and other tools to assist them with their consultations.

Please submit your proposal as soon as possible.

To submit a proposal, it is recommended that you:

1. Consult the proposal assessment criteria (see below)
2. Complete a proposal (see proposed template attached)
3. Develop a budget (see proposed template attached)
4. Include a contact name, phone number and e-mail address
5. Email your proposal to aadnc.fncitizenship-citoyennetepn.aandc@canada.ca by **August 17, 2018.**

8. Assessment Criteria

Proposals are assessed, recommended, and approved based on the criteria below. Meeting these criteria does not guarantee funding from the Collaborative Process on Indian registration, band membership and First Nation citizenship. In accordance with the assessment criteria below, a proposal must achieve 60% (13/22) from a single community and 60% (15/25) for a multi-community or regional organization as a minimum to be considered for funding.

Proposals that receive a minimum 60% score on the assessment criteria will be assessed on a case-by-case basis subject to the total available funding and the number of proposals submitted. We reserve the right to **give consideration to geographic representation**. In situations where the Department receives proposals which represent a single community, multi-community, and regional organizations, we reserve the right to **give priority to the single community** to prevent the duplication of efforts.

Proposals will be reviewed based on the following criteria listed below:

Criteria	Standard
THEMES AND ISSUES The proposal outlines relevant issues pertaining to Indian registration, band membership and First Nation citizenship in line with Annex A. Additional issues may be acceptable as long as they pertain to the subject streams outlined above.	Does the proposal list the issues to be discussed? Are the additional issues suggested relevant and does the proposal provide a rationale for their inclusion? (Max score /4)
ACTIVITIES The proposal demonstrates activities that will lead to a discussion of the issues. Funding will be awarded to proposals that specify how the issues will be discussed (for example, community meetings, focus groups, dialogue circles, etc.). *A Consultation Guide will be provided to successful applicants. Activities will need to be conducted and data collected in line with the Consultation Guide.*	Does the proposal list the activities? Do the activities match the issues? Is the activity conducive to discussion? Is the activity time effective? How will the activity result in a deliverable? (Max score /5)
AUDIENCE(S) The proposal identifies participants. Please note that it is not a requirement to consult all groups listed to the right.	The proposal should identify who are the participants to be consulted, such as: • Chief and Council • Band staff/experts • Community members • Elders • Youth • Women Do activities clearly identify which audiences are being engaged? (Max score /3)
NUMBER OF PARTICIPANTS The proposal identifies expected number of participants.	How many participants are expected? (Max score /2)
TIMELINES AND DELIVERABLES The proposal demonstrates clearly-defined timelines that measure progress and deliverables. *A Consultation Guide will be provided to successful applicants. Activities will need to be*	Does the proposal clearly identify that: • consultation activities must be completed in time for the submission of a final report by March 15, 2019? • there is a demonstration of effective data collection (i.e. record keeping, tracking,

conducted and data collected in line with the Consultation Guide.	minutes, etc.)? • there is an included schedule or timeline of deadlines to complete deliverables (i.e. review process, final drafting of report and preparation of financial statements)? (Max score /3)
CAPACITY The proposal must demonstrate the capacity of the recipient to manage the implementation of consultation activities successfully and complete them.	Does the proposal outline how existing capacity is utilized to oversee completion of activities? Does the proposal outline how community resources will be used to help complete activities? If additional capacity is needed, does the proposal provide justification? (Max score /3)
BUDGET The consultation work-plan proposal must include a detailed budget that does not exceed the respective level of funding being made available. Administrative costs must not exceed 15% of the total proposed budgeted amount. **Proposals that exceed the maximum amount of funding will not be approved for funding.**	Does the budget reflect reasonable costs for the proposed activities and workplan? Are the administrative costs within the 15% limit? (Max score /2)
SCORE FOR FUNDING LEVEL 1	**/ 22**
For multi-community and regional organizations only (funding levels 2 and 3) Please note we reserve the right to give priority to a single community to avoid duplication of efforts with multi-community and regional organizations proposals.	How is your organization adding to Collaborative Process that is distinct from community participation? How is your organization adding to the Collaborative Process that is distinct from a single community? (Max score /2)
SCORE FOR FUNDING LEVELS 2 & 3	**/ 25**

9. Expenditures

Eligible expenditures include, but are not limited to:

- Elder(s), facilitator, note taker and report writer;
- Facility rental (including meeting rooms);

- Administration costs (telephone/fax/internet connection, postage/courier; photocopying) not exceeding 15% of the sub-total amount requested before administration costs; and
- Proposal expenses must be incurred by the project completion date, as set out in the approved proposal.

The funding provided is project-based for the consultations under the Collaborative Process and is not meant to supplement basic core funding. Therefore, non-eligible expenditures include, but are not limited to:

- Office rent
- Professional services and salaries other than listed above
- Capacity, professional development, and support activities
- Tuition
- Purchase of hardware and software needed to support data collection, analysis, and reporting (phones, computers, laptops, tablets)

10. Funding

First Nations and Organizations with a current funding agreement with the Department

Funding will be provided to communities and organizations in the form of a set contribution. The funding approach used to transfer funds will be identified in the recipient's signed funding agreement.

Organizations without a current funding agreement with the Department

For organizations that do not have funding agreements in place, additional information will be required as part of the general assessment. The General Assessment Report summarizes the findings and determines a risk level. A high risk level on the General Assessment will impact a recipient's ability to obtain funding.

For more information on the general assessment visit the Department's website at www.aadnc-aandc.gc.ca/eng/1390855955971/1390855996632.

Use of unexpended funds

Unexpended funds remaining at the end of the fiscal year must be returned to the Department.

11. Reporting Requirements

The applicants will submit a summary report of the findings **and** a final audited statement of revenue and expenditures, signed by a senior financial officer of the community for the total funds allocated by the Department. These reports must be and submitted no later than March 15, 2019. A sample expenditures report (DCI#4548549) can be found at the following link: www.aadnc-aandc.gc.ca/eng/1385559716700/1385559777677.

Contact Information

For further information please visit: www.canada.ca/first-nation-citizenship.

You can also write to: Crown-Indigenous Relations and Northern Affairs Canada
New Service Offerings
25 Eddy Street, 6th Floor, Room 196
Gatineau, QC K1A 0H4

E-mail: aadnc.fncitizenship-citoyennetepn.aandc@canada.ca

Phone: 1-855-833-0033

Fax: 403-292-5393

ANNEX A

Issues to be discussed

The removal of the 1951 cut-off from the *Indian Act*

- Implementation date
- Resourced required by First Nations for implementation
- Concerns that may require mitigation
- Evidence for proof of entitlement pre-1951

Remaining inequities related to registration and membership under the *Indian Act*

- Issues relating to adoption
- Second generation cut-off-rule
- Unknown or unstated paternity
- Enfranchisement
- Categories in Indian registration and how they are applied
- Border Crossing
- Gender identity and registration
- Registration for children of same-sex parents
- De-registration

Devolution of the responsibility for determining membership / citizenship to First Nations

- Will there be a continued federal government role in determining Indian status and band membership?
- First Nation's authorities to determine band membership or citizenship
- Community Impacts and band issues
- Self-Government / Self-Determination and *Indian Act* divestment

The Collaborative Process on Indian Registration, Band Membership and First Nation Citizenship
***(insert)* FIRST NATION or NAME OF ORGANIZATION**

LEVEL OF FUNDING: (insert level of funding that applies to your proposal) **SINGLE COMMUNITY, MULTI-COMMUNITY, or REGIONAL ORGANIZATION**

Please indicate if you are requesting the Minister's Special Representative and Departmental representatives

ACTIVITIES:

1. Please include a brief description of a community profile or organization's mandate, and capacity to administer the consultation work-plan proposal. For organizations, please indicate if you are currently receiving funding from the Department.

2. The **(insert group name)** will develop and implement the following activities **(types of activities)** to discuss Indian registration, band membership and First Nation citizenship.

3. Activities to be completed are outlined as follows:

Proposal Work Plan				
Type of Activity	**Location(s)**	**Date(s)**	**Anticipated # of Participants**	**Deliverable(s)**

Further information on activities and key issues to be covered can be attached as a 1-2 page overview.

4. The **(insert group name)** will prepare a summary report following the activity that will outline the comments, key issues and concerns raised by participants during the activity.

5. The **(insert group name)** will prepare an audited Final Statement of Revenue and Expenditures, signed by a senior financial officer of the organization, for the total funds allocated to the organization by the Department to plan and hold the consultation session.

DELIVERABLES AND DUE DATES:

1. Based on the Consultation Work-Plan Proposal, deliverables will be completed by the dates specified in the work-plan.

2. The **(insert group name)** will submit a summary report following the consultation session that will outline the comments, key issues and concerns raised by participants during the session by **March 15, 2019**.

3. The **(insert group name)** will submit a Final Statement of Revenue and Expenditures, signed by a senior financial officer of the organization, for the total funds allocated to the organization by the Department to organize and hold the consultation session by March 15, 2019.

POINT OF CONTACT INFORMATION:

Contact Name/Title:		Phone Number	
Address:		E-mail:	

(Insert Name of) FIRST NATION or ORGANIZATION

The Collaborative Process on Indian Registration, Band Membership and First Nation Citizenship

PROPOSAL BUDGET (based on consultation work-plan)

LEVEL OF FUNDING: (insert level of funding that applies to your proposal) **SINGLE COMMUNITY, MULTI-COMMUNITY, REGIONAL ORGANIZATION**

ACTIVITIES/ITEMS	COSTS
PROFESSIONAL FEES	
Elder(s)	$
Facilitator	$
Report Writer	$
(or any other expenditure related to implementing the consultation work-plan)	
TOTAL – PROFESSIONAL FEES	**$**
ACTIVITIES/MEETING COSTS	
Community Centre or Hall Rental	$
Audio/Video Rental	$
Catering	$
(or any other expenditure related to implementing the consultation work-plan)	
TOTAL – MEETING COSTS	**$**
SUB-TOTAL	$0.00
*OFFICE ADMINISTRATION (up to 15% of Sub-Total)**	
General Fax & Phone Usage, Postage & Shipping, Office Supplies & Equipment, Photocopying, etc.	
TOTAL – OFFICE ADMINISTRATION	**$0.00**
TOTAL – ALL EXPENSES	**$0.00**

The maximum amount of funding will be strictly adhered to. Proposals that exceed the maximum amount of funding allotted for respective funding levels will not be approved for funding.

**** Administrative costs must be included in the maximum funding value for each funding level.***